

LA BELLA & MCNAMARA, LLP
CHARLES G. LA BELLA (SBN 183448) clabella@labellamcnamara.com
THOMAS W. MCNAMARA (SBN 127280) tmcnamara@labellamcnamara.com
CHRYSTA L. ELLIOTT (SBN 253298) celliott@labellamcnamara.com
401 West A Street, Suite 1150
San Diego, California 92101
Telephone: (619) 696-9200
Facsimile: (619) 696-9269

Attorneys for Defendant Tina Kafka

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,) Criminal Case No. 08CR3367-L
)
Plaintiff,) NOTICE OF MOTION AND MOTION
) FOR EARLY TERMINATION OF
vs.) PROBATION
)
TINA KAFKA,) No Oral Argument Pursuant to Local Rule
)
Defendant.) Judge: Hon. M. James Lorenz
) Ctrm: 14 (5 th Floor)
)

TO ALL PARTIES ENTITLED TO NOTICE:

PLEASE TAKE NOTICE that Defendant Tina Kafka, by and through her counsel, La Bella & McNamara, LLP, respectfully moves the Court for an order terminating Defendant's probation. This motion is based on 18. U.S.C. § 3564(c), Fed. R. Crim. P. 32.1 and all other applicable statutes, case law and local rules.

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1 **MOTION**

2 **I. INTRODUCTION**

3 Tina Kafka (“Ms. Kafka”) was indicted on October 2, 2008. On January 12, 2009,
4 Ms. Kafka pled guilty to one count of the superseding information: a misdemeanor in
5 violation of 18 U.S.C. § 2701. Ms. Kafka was sentenced to two (2) years probation and a
6 \$25 fine. As of February 24, 2010, Ms. Kafka has served over one year of her probation and
7 paid the \$25 fine. She has also complied with all the conditions of her probation. At this
8 time, for the reasons set forth below, Ms. Kafka respectfully requests the early termination of
9 her probation.

10 Ms. Kafka’s Probation Officer, Kasey McCoskery, does not oppose this request.
11 Assistant United States Attorney Nicole Jones also does not oppose this request.

12 **II. ARGUMENT**

13 **A. Early Termination of Probation is Permitted**

14 Pursuant to 18 U.S.C. § 3564(c), “[t]he court, after considering the factors set forth in
15 section 3553 (a) to the extent that they are applicable, may, pursuant to the provisions of the
16 Federal Rules of Criminal Procedure relating to the modification of probation, terminate a
17 term of probation previously ordered and discharge the defendant at any time in the case of a
18 misdemeanor ... if it is satisfied that such action is warranted by the conduct of the defendant
19 and the interest of justice.” Based upon the facts presented below, and in consideration of the
20 factors set forth in section 3553(a), Ms. Kafka submits that early termination is warranted in
21 this situation.

22 **B. Termination is Warranted for Tina Kafka**

23 Over a year ago, Ms. Kafka was sentenced to two years of probation for misdemeanor
24 “unlawful access to stored communication.” This terrible lapse in judgment stemmed from
25 an extremely difficult period in her life following an ugly split from her husband. Ms. Kafka
26 does not consider this an excuse; she accepts that what she did was wrong, but, with the help
27 of intensive therapy, she has learned from her mistakes and is ready to forge a new path. Ms.
28 Kafka seeks early termination in order to take the next step in her life: She has been offered a

1 position at Columbia University Teachers College in New York to earn her Masters degree in
2 reading instruction. (See Ms. Kafka's letter to the Court attached as Exhibit A.)

3 Ms. Kafka was accepted to this prestigious program for the current school year, but
4 deferred her attendance for one year. Deferral for a second year is not a possibility. At
5 Columbia, Ms. Kafka intends to specialize in adult literacy. She also intends to take part in a
6 fellowship program that will allow her to work to improve the literacy of incarcerated
7 mothers at Riker's Prison. Due to her recent experiences, which included spending four days
8 at the Metropolitan Correction Center surrounded by disadvantaged women, Ms. Kafka is
9 truly passionate about this pursuit. Following the program at Columbia, Ms. Kafka plans to
10 return to San Diego to continue her work with continuing education in the San Diego
11 Community College District.

12 Ms. Kafka has complied with all of the conditions of her probation. Significantly, she
13 has attended therapy twice a week for the past year and continues to do so at her own
14 expense. A year of intensive therapy has helped her to understand how she contributed to her
15 circumstances and has given her the wherewithal to deal with emotional situations without
16 resorting to illegal behavior. Ms. Kafka's friends have witnessed her trials and growth and
17 fully support her next step. (See letters in support of Ms. Kafka attached as Exhibit B.)

18 Early termination will permit Ms. Kafka to move forward in an extremely positive
19 direction after this difficult period in her life. She will truly be able to put this incident
20 behind her and concentrate on rebuilding her life and focus all her attention on her schooling,
21 career and family.

22 **III. CONCLUSION**

23 For the reasons cited above, Ms. Kafka respectfully requests early termination of her
24 probation.

25 LaBella & McNamara, LLP

26 Dated: February 24, 2010

/s/ Chrysta L. Elliott

By: Chrysta L. Elliott

Attorney for Defendant Tina Kafka

Email: celliott@labellamcnamara.com